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## BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE

Chairman

BOB STUMP

Commissioner

BOB BURNS

Commissioner

TOM FORESE

Commissioner

ANDY TOBIN

Commissioner

Arizona Corporation Commission

DOCKETED

MAY 13 2016

DOCKETED BY

[Signature]

IN THE MATTER OF THE APPLICATION  
OF QWEST CORPORATION DBA  
CENTURYLINK QC, FOR REVISIONS TO  
CENTURYLINKS COMPETITIVE  
EXCHANGE AND NETWORK SERVICES  
TARIFF TO INTRODUCE THE FACILITY  
RELOCATION COST RECOVERY  
SURCHARGE.

DOCKET NO. T-01051B-15-0382

DECISION NO. 75551ORDER

Open Meeting  
May 3 and 4, 2016  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On November 9, 2015, Qwest Corporation dba CenturyLink QC ("CenturyLink" or "Company") filed tariff revisions for a proposed Facility Relocation Cost Recovery Surcharge ("FRS"). According to CenturyLink, the FRS is designed to recover the costs of government mandated relocations of CenturyLink's network facilities. CenturyLink proposed a maximum monthly charge of \$3.00 with an initial monthly charge of \$1.00. The FRS would be assessed on all residential and commercial customers. The cover letter accompanying the proposed tariff revisions indicates that CenturyLink intends to recalculate and update the FRS annually. CenturyLink sent a notice to all affected customers in December, 2015.

2. Staff recommends approval of a \$3.00 increase to the headroom available in the residential access line rate to cover CenturyLink's request. No increase to the headroom in

1 CenturyLink's business rates is necessary. Staff also recommends approval of the Company's recent  
2 proposal to set the initial unbundled monthly surcharge at \$.80.

3 **Background**

4 3. CenturyLink is an incumbent local exchange carrier ("ILEC") providing  
5 telecommunications services throughout much of Arizona. As a result of earlier decisions of the  
6 Commission, all of CenturyLink's retail services have been classified as "competitive."<sup>1</sup> This means  
7 that CenturyLink is no longer subject to the traditional monopoly ratemaking formula and A.A.C.  
8 R14-2-103. Public service corporations providing competitive telecommunications services in Arizona  
9 are subject to Article 11 of the Arizona Administrative Code ("A.A.C."). R14-2-1109 governs the  
10 pricing of competitive telecommunications services.<sup>2</sup> It provides generally that competitive  
11 telecommunications services may be priced at any level at or below the maximum rate stated in the  
12 company's tariff on file with the Commission, so long as the price is not less than the company's total  
13 service long-run incremental cost of providing service. No Commission approval of price changes up  
14 to the maximum rate is required; however, companies must provide the Commission with concurrent,  
15 written notice of the price change. A.A.C. R14-2-1110 governs changes to the maximum rates of  
16 competitive telecommunications carriers. Changes to the maximum rates of providers require  
17 Commission approval. Prior to 2012, CenturyLink was subject to an Alternative Form of Regulation  
18 ("AFOR"), which established price caps for the Company's services. The original Price Cap Plan for  
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20 <sup>1</sup> In Decision No. 73354, dated August 21, 2012, the Commission approved a Settlement Agreement entered into by the  
21 Commission's Utilities Division ("Staff"), CenturyLink, the Residential Utility Consumer Office ("RUCO") and the  
22 Arizona Investment Council ("AIC") to settle disputed issues related to CenturyLink's application in Docket No. T-  
23 01040B-11-0378 to Classify and Regulate Retail Local Exchange Telecommunications Services as Competitive and to  
24 Classify and Deregulate Certain Services as Nonessential. The Settlement Agreement and the Commission's Order  
25 provided that CenturyLink would be entitled to request increased rates under A.A.C. R14-2-1110 ("Rule 1110") of the  
26 Commission's rules. Under the terms of the Settlement Agreement, CenturyLink was authorized to file a request for  
27 additional pricing flexibility for retail services that were subject to more stringent terms and conditions under the  
28 Agreement after the expiration of two years from the effective date of the Commission's Order. CenturyLink filed a  
request and Staff filed a memorandum on March 11, 2015, verifying that the Company had met the criteria set out in the  
Agreement for additional pricing flexibility under the rules.

<sup>2</sup> R14-2-1104 Subpart A.4. provides for "A tariff for each service to be provided that states the maximum rate as well as  
the initial price to be charged, and that also states other terms and conditions that will apply to provision of the service by  
the telecommunications company. The telecommunications company shall provide economic justification or cost support  
data if required by the Commission or by Staff. Subpart D provides that, "[i]f it appears, based upon Staff review or upon  
comments filed with Commission Docket Control Center, that a rate, term, or condition of service stated in a tariff may be  
unjust or unreasonable, or that a service to be offered by the applicant may not be competitive, the Commission or Staff  
may require further information and/or changes to the application or to the tariff."

1 CenturyLink was approved in Decision No. 63487 (March 30, 2001), and CenturyLink's Renewed  
2 Price Cap Plan was approved in Decision No. 68604 (March 23, 2006).

3 4. The language in CenturyLink's proposed FRS tariff states: "This surcharge is for the  
4 recovery of the costs for the relocation of the network facilities or infrastructure mandated by the  
5 City, County, State or Federal authorities, or any other governmental entity of any kind." It further  
6 states that "[t]his incremental charge is billed monthly per retail access line and will be identified on  
7 the bill as a Facility Relocation Cost Recovery Fee." The Company proposed a maximum charge of  
8 \$3.00 and an initial charge of \$1.00. On April 15, 2016, the Company filed a revision to its proposed  
9 tariff reducing the initial charge from \$1.00 to \$.80. The Company stated that it was making this  
10 change because "consumer concerns expressed by comments filed in the docket have caused the  
11 Company to reconsider the amount of the fee." The fee is to be recalculated on an annual basis.

12 5. While this matter was pending, Staff became aware of H.B. 2486, which had been  
13 introduced in the Arizona Legislature. This measure would require a municipality to reimburse a  
14 telecommunications utility for facility relocation costs if certain conditions are met. The conditions  
15 include 1) any construction project in the municipality is undertaken individually or jointly by an  
16 intergovernmental contract; 2) the contract is funded in whole or in part by voter-approved bond  
17 proceeds; and 3) the construction project requires the telecommunications utility to adjust or relocate  
18 facilities. H.B. 2486 has passed both the House and the Senate, with an amendment in the Senate  
19 Finance Committee. The bill will need to be sent back to the House for a Final Read before going to  
20 the Governor's Office for signature. CenturyLink stated that this new law would cover some but not  
21 all of these relocation costs in the future.

22 6. There has been a great deal of consumer interest in CenturyLink's proposed FRS. The  
23 Company notified customers of the proposed charge in December, 2015.

24 7. Since the proposed tariff revision was filed, Staff has sent various data requests to the  
25 Company related to its application, consumer concerns, and other issues. The Staff has also met with  
26 the Company to discuss various aspects of its request.

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**1 Customer Comments**

2           8.       Since sending its notice in December, 2015, the Company indicated in response to a  
3 Staff data request that it had received 677 calls in December, 2015 and 383 calls in January, 2016. In  
4 response to CenturyLink's notice, the Commission received approximately 250 public comments  
5 opposing CenturyLink's request. The comments received by the Commission can be summarized as  
6 follows:

- 7           •       Relocating facilities is a cost of doing business and should not be recovered through an  
8 additional charge.
- 9           •       The notice letter inadequately described the proposal.
- 10          •       CenturyLink is in good financial condition and does not deserve or need a rate  
11 increase.
- 12          •       The proposed surcharge will cause the customer to drop landline and use wireless only.
- 13          •       CenturyLink's poor service should not be rewarded with more money.
- 14          •       The surcharge is a back door way of increasing rates.
- 15          •       Other companies handle such "mandatory" expenses in the normal course of business  
16 and budget accordingly. CenturyLink should as well.
- 17          •       Customers should not be held responsible to cover the costs of their having to relocate  
18 because of either poor planning or some city/county/state decision to force them out  
19 for any reason.

20           9.       A significant number of comments were received that indicated that the Company  
21 representatives did not have accurate information regarding the proposal, or had no information. One  
22 customer indicated that he was transferred to several different CenturyLink representatives and he  
23 finally gave up when no one knew what he was talking about. Staff's Consumer Services Section later  
24 made a cold call to the same phone number at CenturyLink and similarly found that the CenturyLink  
25 consumer representatives were unfamiliar with the proposed charge and unable to respond to  
26 questions. Staff informed CenturyLink about what had transpired, and since then, the problems have  
27 evidently been corrected. The number of complaints that Staff has been receiving has declined. Staff  
28 made another cold call on April 15, 2016 and found that the service representative was able to field  
most of the questions posed on the surcharge.

**26 Staff Analysis**

27           10.      In its filing, the Company effectively requests an increase to its maximum residential  
28 and business access-line rates. CenturyLink's services have been classified as competitive, and are now

1 subject to the Commission's Competitive Telecommunications Services Rules. Under those Rules,  
2 rates for competitive services are not set according to the traditional monopoly ratemaking formula.  
3 Instead, the Company is allowed to establish rates within a range of rates, which is approved by the  
4 Commission. To determine the appropriate range, the Commission may consider various factors,  
5 including cost support data, economic justifications, or other indicia indicating that the proposed  
6 range of rates is just and reasonable.<sup>3</sup>

7 11. CenturyLink's last cost-of-service rate case occurred in 1995 with a test year ending  
8 March 31, 1993. CenturyLink's last AFOR case occurred in 2006. CenturyLink's last maximum rate  
9 increase for residential and business access-line rates was in Decision No.73781 issued on March 21,  
10 2013. The Company reports that it has no headroom to make any changes to its residential access line  
11 rate to accommodate the proposed FRS charge. The Company does have headroom between its  
12 maximum and current business access line rate, to make the proposed rate changes.

13 12. The Company indicated to Staff that it has historically incurred some amount of  
14 facility relocation expenses, but that the amount of such costs has risen dramatically over the last few  
15 years due to various stimulus programs. CenturyLink also stated that, in some cases, it is no longer  
16 reimbursed by entities that used to reimburse it because of changes in policies and ordinances.

17 13. The Company also maintains that its costs and technology now are entirely different  
18 than what existed the last time these costs were examined by the Commission. The Company states  
19 that the cost of copper has skyrocketed, and fiber and digital technology have an entirely different cost  
20 structure. Further, the Company states that there are fewer access-line customers from which to  
21 recover the Company's costs. In this regard, the Company states that any "analysis of the costs  
22 recovered in rates that were set over 20 years ago that does not also adjust for the difference in the  
23 number of customers from whom those costs are being recovered would lead to false conclusions."  
24 There is no question that the wireline access line counts of CenturyLink has decreased in recent years,  
25 and continues to decrease.

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27  
28 <sup>3</sup> See A.A.C. R14-2-1104; *see also* A.A.C. R14-2-1110(B)(1) and (4).

1           14.     To determine the reasonableness of CenturyLink's request, Staff asked CenturyLink to  
2 provide information on the levels of reimbursed and unreimbursed facility relocation expenses for the  
3 years 2010, 2011, 2012, 2013 and 2014. Initially, CenturyLink was only able to provide information  
4 for 2013 and 2014, because it did not track those costs in prior years. In a letter dated March 17,  
5 2016, CenturyLink stated that unreimbursed facility relocation costs for years prior to 2012 is not  
6 obtainable because the Company did not track those costs separately prior to that time. In a letter  
7 dated March 28, 2016, CenturyLink provided total unreimbursed Arizona Relocation Costs that also  
8 included additional information for 2012 and 2015. Although this data is limited, it does not support  
9 the conclusion that facility-relocation costs are increasing. It does, however, identify a significant level  
10 of unreimbursed costs.

11           15.     Staff also reviewed financial information from CenturyLink. According to the  
12 Company's most recent Annual Report, its Arizona jurisdictional fair value rate base is now  
13 \$1,360,278,766. CenturyLink provided information indicating that, if it set the actual rate at the  
14 proposed maximum rate requested in this docket, the expected effect of this filing would be an  
15 increase to CenturyLink's annualized Arizona revenues of less than 7.1 percent. The expected effect  
16 of this filing at the initial rate proposed by CenturyLink would be an increase to CenturyLink's  
17 annualized Arizona revenues of less than 1.88 percent. According to this analysis, the annual revenue  
18 that CenturyLink would receive with either the proposed surcharge amount of \$.80 or the maximum  
19 rate of \$3.00 would not result in the Company exceeding a reasonable rate of return.

20           16.     As part of its analysis in evaluating the reasonableness of the proposed maximum rate,  
21 Staff additionally reviewed rates that have been approved for access lines for other companies whose  
22 services have been classified as competitive. Staff has concluded that the total of CenturyLink's  
23 current access line rates plus the proposed maximum FRS rate would fall within the range of the  
24 access line rates that the Commission has approved for other telecommunications providers whose  
25 rates have been classified as competitive.

26           17.     After considering the information discussed above, Staff concludes that the rates  
27 proposed by the Company are just and reasonable. The Company should thus be allowed to increase  
28 the headroom for its residential access lines by \$3.00. The business access line rate already has

1 sufficient headroom to accommodate an increase to its unbundled maximum rate up to \$3.00.  
2 Therefore, there is no need to increase the maximum rate for business access lines at this time. The  
3 initial rate of \$.80 proposed by the Company is also reasonable.

4 18. The Company has indicated that it intends to allocate or unbundle the amount  
5 associated with its "Facility Relocation Charge," and set this out separately on customer bills. The  
6 Company also proposes to review the charges on an annual basis to ensure that it is tracking the  
7 facility relocation costs for unreimbursed projects for the prior year. The Company also states that the  
8 FRS will be updated annually. Although the manner in which the surcharge will be calculated was not  
9 included in the proposed tariff, CenturyLink, on January 27, 2016, offered to revise the proposed tariff  
10 to clarify the manner in which the surcharge is to be calculated.

11 19. Staff concludes that the unbundled charge is not inconsistent with A.A.C. R14-2-1104,  
12 -1109, and -1110, and is reasonable under the circumstances.

### 13 **Staff Recommendation**

14 20. CenturyLink has effectively requested an increase to its maximum residential access  
15 line rate of \$3.00 per month, with \$.80 of that rate increase identified as a Facility Relocation Charge.  
16 Staff recommends approval of this application with the initial surcharge set at \$.80 and an increase in  
17 the residential maximum access line rate of \$3.00. The initial surcharge for business lines shall also be  
18 set at \$.80 per access line. Staff further recommends that CenturyLink file a revised tariff consistent  
19 with the Commission's Order in this matter within 30 days of the effective date of that Order. The  
20 tariff shall also reflect that CenturyLink shall file any changes to its unbundled surcharge with the  
21 Commission in accordance with R14-2-1109, except that the tariff shall also incorporate the yearly  
22 process proposed by CenturyLink for updates to the FRS and also state that the Company shall  
23 provide the Commission Staff with any other information requested in support of its changes in FRS  
24 rates.

### 25 CONCLUSIONS OF LAW

26 1. Qwest Corporation dba CenturyLink QC is a public service corporation within the  
27 meaning of Article XV of the Arizona Constitution and A.R.S. 40-285.  
28

2. The Commission has jurisdiction over Qwest Corporation dba CenturyLink QC and the subject matter in this filing.

3. The Commission, having reviewed the filing and Staffs Memorandum dated April 20, 2016 concludes that it is in the public interest to approve this application with the conditions recommended by Staff.

ORDER

IT IS THEREFORE ORDERED that this application with the initial surcharge set at \$.80, an increase in the residential maximum access line rate to \$3.00 and the initial surcharge for business lines set at \$.80 per access line be and hereby is approved.

IT IS FURTHER ORDERED that CenturyLink file a revised tariff consistent with the Commission's Order in this matter within 30 days of the effective date of that Order.

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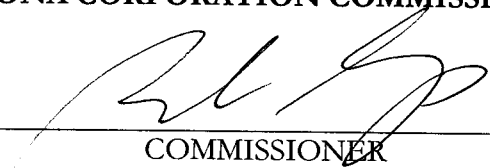
1 IT IS FURTHER ORDERED that the tariff shall also reflect that CenturyLink shall file any  
2 changes to its unbundled surcharge with the Commission in accordance with R14-2-1109, except that  
3 the tariff shall also incorporate the yearly process proposed by CenturyLink for updates to the FRS  
4 and also state that the Company shall provide the Commission Staff with any other information  
5 requested in support of its changes in FRS rates.

6 IT IS FURTHER ORDERED that this Decision shall be become effective immediately.

7  
8 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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10 CHAIRMAN

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12 COMMISSIONER

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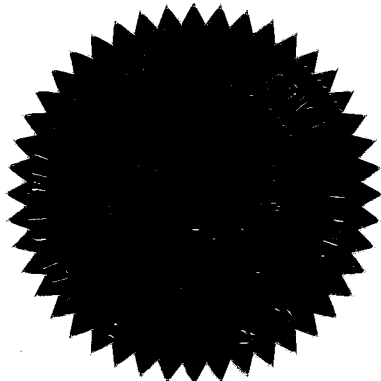
14 COMMISSIONER

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16 COMMISSIONER

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18 COMMISSIONER



20 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
21 Director of the Arizona Corporation Commission, have  
22 hereunto, set my hand and caused the official seal of this  
23 Commission to be affixed at the Capitol, in the City of  
24 Phoenix, this 13th day of May, 2016.

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26 JODI JERICH  
27 EXECUTIVE DIRECTOR

28 DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

TMB:WMS:red/ML

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